

**11-CV-00311-CMP**

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ates District Court,  
Western District of Washington

Lance P. McDermott  
Plaintiff,

) Case No.:

vs. )  
Patrick R. Donahue, Postmaster Civil Service Reform Act of  
General, United States Postal ) 1978,  
Service, *Et All*,

Defendants.

1

) Noted for c  
March 2011.

1

Declaration

This Complaint is filed due to the Constitutional, Statutory and Administrative violations of Due Process inflicted on Other U.S. Postal Service (USPS) Employees and Myself by Officials of the Agency and Officials of the USPS Inspection Service acting under the color of their Law Enforcement Authority. Federal Law Enforcement Officials are rushing to depriving the rights of Employees under compulsion to submit to an Agency Administrative Investigation under the Color of Law (18 U.S.C. 242) in conspiracy with other USPS Officials (18 U.S.C. 241).

Therefore, I am rushed to file this Complaint and ask for a Temporary Restraining Order. Given time I intend to amend this Complaint and allow other Employees injured to join.

I also ask the Court to consider granting FRCP 23 Class Action with proper Legal Defense (Hagens, Berman, Sobol and Shapiro LLP) to the 50,031 Employees (GAO Report 10-178, exhibit

Pleading - 1

1 1, page 1) being denied their Constitutional and Statutory Due  
2 Process Rights under the USPS National Reassessment Program.

3

4 Jurisdiction over the Person

5 *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388  
6 (1971) the Court held that a federal agent acting under color of  
7 his authority gives rise to a cause of action for damages  
8 consequent upon his unconstitutional conduct. (Bell v. Hood, 327  
9 U.S. 678 (1946)) The Court further found that - "it is ... well  
10 settled that, legal rights have been invaded, and federal statute  
11 provides for a general right to sue for such invasion, Federal  
12 courts may use any available remedy to make good the wrong done."

13

14 Subject Matter Jurisdiction

15 I am asserting my claim created by federal law pursuant to 28  
16 U.S.C.A. Section 1331 that there are Federal Questions to be  
17 answered by the Federal Court.

18

19 Jurisdiction to Render Judgment

20 Title 42 section 1983 "... or causes to be subjected, any  
21 citizen of the United States or other person within the  
22 jurisdiction thereof to the deprivation of any rights,  
23 privileges, or immunities secured by the Constitution and laws,  
24 shall be liable to the party injured in an action at law..."  
25 Equitable and other relief is sought pursuant to 42 U.S.C.

1 | Section 2000e-5(g).

## Scope of Jurisdiction

4 The scope of the Court's jurisdiction is within the  
5 Constitution Article 14 Due Process Procedures and Congressional  
6 Statutes named in this pleading.

Standing

Title 28 rule 15(a)(1), - "... The uniform rule (see General Note above) requires that the petition for review contain 'a concise statement, in barest outline,' ..." .

## Injury

I believe that Other Employees and I have been injured by constitutional, statutory and administrative due process procedural violations.

## Background

20 On February 8, 2011, at about 1:30pm I was told by my  
21 maintenance supervisor Ken Dow that maintenance employee Brenda  
22 Burk asked for me as an American Postal Workers Union (APWU)  
23 maintenance steward to be present for a meeting. The meeting was  
24 conducted by Christian Bartero from Human Resource over the  
25 speaker phone. Ken Dow read several documents reportedly created

1 under National Reassignment Program (NRP) for Limited and Light  
2 Duty employees by the Seattle NRP District Committee. Ken left  
3 the room several times to make copies for Brenda of what he was  
4 "required" to read to her. Basically Brenda was told that the  
5 "Committee" found that there was no light duty work for her and  
6 that she would be given 30 days of Administrative Leave and then  
7 discharged to the Department of Labor's Occupational Workers  
8 Compensation Program (OWCP). Brenda asked who made the decision  
9 and was told that the "Committee" made the decision. Brenda  
10 asked why she was not notified or given an opportunity to be  
11 heard and was told that "they followed all the rules". She was  
12 told that the Committee reviewed everything including her Medical  
13 Records (protected by the Privacy Act). Brenda was told that she  
14 only had the right to appeal to a Human Resource Manager but was  
15 not given anyway to contact that Manager. She was not even given  
16 a written decision signed by the Manager with Authority to fire  
17 her containing the details of why she was being let go after 14  
18 years with the Postal Service. Brenda is a disabled veteran who  
19 was injured on the job two years ago and was denied medical  
20 treatment by the Postal Service which further injured her  
21 requiring her to use a walker. Despite her disability she was  
22 performing her maintenance job until Management said that she  
23 could not go out on to the workroom floor with her walker. She  
24 since had been working in the office answering phones and working  
25 with our parts clerks inventorying and stocking parts. When she

1 asked why she could not continue doing this work Christian  
2 Bartero said that it would be a "wind-fall" for Brenda to let her  
3 continue. I asked about the National In-Sourcing Program  
4 (exhibit 4) started in 2006 to use limited and light duty  
5 employees to answer phones that saved the Postal Service \$83  
6 million from the Call Center Contract in 2006. Christian said  
7 that she did not know of the program. At the end of the meeting  
8 Brenda was almost in tears and said - "I understand now what  
9 makes employees go postal." I said - "Don't go there Brenda  
10 these people don't care." Brenda spoke a little more about how  
11 unfair it was that she was never informed and was not allowed to  
12 participate in the decision.

13 On February 11, 2011, at about 10am I was at work and Postal  
14 Inspector Michael Vanachek told me that he want to interview me  
15 about Brenda's meeting. I told the Inspector that I did not trust  
16 Inspectors because they work for management. The Inspector told  
17 me that he did not work for management. I asked him for his  
18 business card and he told me that he had his home phone number on  
19 it and did not like people calling him at home so he would not  
20 give me one (I do not know if I spelled his name right). He told  
21 me that he was just there to get a statement from me and that I  
22 was not in trouble. He also told me that if I told him anything  
23 criminal that he would have to report it. I talked to the  
24 Inspector about all the Due Process rights that Management  
25 violated and asked if he would look into the violations. He said

1 that he was only looking at Brenda's threats to Management. I  
2 spoke to him about possible criminal acts of Management and he  
3 said that he was only interest in Brenda. I gave him a written  
4 statement about the meeting as describe above and he used his Law  
5 Enforcement Authority to swear me to the truth of it. I did not  
6 see his badge.

7 On February 14, 2011, at about 10am Brenda called me on my  
8 cell phone and asked if I would represent her as a maintenance  
9 steward in an investigation at 10am on February 15, 2011. I told  
10 her I would be there. At about 6pm I was called on my cell phone  
11 at home while eating dinner by my supervisor Ken Dow. Ken -  
12 "This is Ken, since you are part of the investigation you cannot  
13 represent Brenda tomorrow ..." I hung up and he called back  
14 several times using different phones. I believe that it was an  
15 invasion of my privacy since I had never given him my cell phone  
16 number and he can only call me on my home number if it is a  
17 postal emergency.

18 On February 15, 2011, at about 10am before the investigation  
19 meeting with Brenda started Inspector Vanacheck told me that I  
20 could not represent Brenda and the "rule" was that management  
21 would choose. I told him that he had the rule wrong. He told me  
22 - "You have nothing to do with this" and - "get out of hear".  
23 The Inspector walked over to Supervisor Donna Gruetzmacher and  
24 asked her for another union steward. Donna talked to clerk  
25 steward Chuck Lee (exhibit 2) with the Inspector. The Inspector

1 with Chuck present handed Donna a business card and told her to  
2 call if she had any problems. Chuck asked him for a business  
3 card twice and the Inspector would not give him one. The  
4 Inspector then brought Chuck over to Brenda and she again stated  
5 that it was her choice and Chuck agreed. The Inspector then said  
6 that he would call a Manager and get another maintenance steward  
7 to represent Brenda. After an hour and a call to the American  
8 Postal Workers Union (APWU) President Jessie Gobunquin I was  
9 allowed to represent Brenda in the meeting that started about  
10 11:15am with a second Inspector John Wagner present. Brenda  
11 asked what the investigation was about. Inspector Vanachek asked  
12 me if I had told Brenda what it was about. I told him that it  
13 was not my job to inform Brenda what they were investigating. I  
14 asked the Inspector if he was doing a Civil or Criminal  
15 investigation. After some arm twisting Inspector Vanachek said  
16 that they were doing an "administrative" investigation. I ask  
17 what administrative rule Brenda was accused of violating and he  
18 said "making threats". I again asked him what specific rule did  
19 she violate and he told us that he was not going to argue with  
20 me. He than again stated that it was an administrative  
21 investigation and that anything said in a criminal nature would  
22 be prosecuted. The Inspector said that they had been called in by  
23 a Manager. Brenda asked which Manager called them and they would  
24 not say. Brenda said that appeared that they were working for  
25 Management who had already violated her rights. Inspector John

1 Wagner said that they had no vested interest in the outcome and  
2 they did not even care one way or another. Inspector Vanachek,  
3 who seemed to be in charge, asked if we needed a break before  
4 starting the interview. I said yes and Brenda and I left the  
5 room. I told Brenda that the Inspectors were abusing their Law  
6 Enforcement Authority to conduct an administrative investigation  
7 and not to take part until she can get an attorney. She decided  
8 to go on with the investigation. Inspector Vanachek said that he  
9 had reviewed everything including Brenda's Medical Record.

10 (Note: Medical Records can only be released to Law Enforcement  
11 Officials doing a criminal investigation.) Brenda told her side,  
12 as I already stated. Inspector Vanachek then asked her if she  
13 had said anything about using a gun or the murder of Postal  
14 Manager Ray Ubis. Both Brenda and I said that she did not make  
15 any of these statements. The Inspector asked Brenda about  
16 hitting her walker on her car (crime?) when she was escorted out  
17 of the building by Ken Dow (I was not present). Brenda said that  
18 she tripped on the curb (no handicap access). When I said that I  
19 thought that it was an abuse of their law enforcement authority  
20 (exhibit 3) to continue the investigation Inspector Wagner said -  
21 "the meeting is over". Then Inspector Vanachek said that they  
22 would turn over their findings to Management and "they" would  
23 make a decision.

24 Brenda called me on February 19, 2011, and told me that Ken  
25 Dow had called her at home and told her to come in for another

1 Inspection Service investigation interview on February 23, 2011,  
2 at 10am. She also said that Ken had said that he had let me know  
3 of the meeting. I said that Ken had not talked to me and I would  
4 be there for the meeting and that she should try and get her  
5 attorney to attend.

6 On February 21, 2011, at 1:30pm at work Ken Dow asked me if I  
7 knew of the Meeting. I said yes. He than said - "Just tell  
8 Brenda to answer the questions".

9 Therefore, on February 22, 2011, I filed this Complaint in  
10 hast and request a FRCP 65(b) Temporary Restraining Order to stop  
11 this unconstitutional and unlawful behavior.

12

13 Arguments

14 1. Constitutional Due Process -

15 *FTC v. Standard Oil Co. of California*, 449 U.S. 232, (1980)  
16 Notes, - "... Courts are therefore **obliged** to raise finality  
17 concerns even when the parties do not. In principle, courts must  
18 also resolve finality issues before addressing nonjurisdictional  
19 timing doctrines such as common law exhaustion or ripeness, See  
20 *American Train Dispatchers Ass'n v. ICC*, 949 F.2d 413 (D.C. Cir.  
21 1991). ('At the threshold, the ICC argues that the Union's  
22 petition is barred for want of finality, ripeness, and exhaustion  
23 of administrative remedies. Of these three requirements for  
24 review, only finality is jurisdictional, and so we are bound to  
25 consider it first.'), though courts do not always pay attention

1 to such niceties." (WEST Group, American Casebook Series,  
2 Federal Administrative Law, 2<sup>nd</sup> Edition, 2001, (WEST) pages 859-  
3 860.)

4 In *Little v. Barreme*, 6 U.S.(2 Cranch) 170, 2 L.Ed. 243  
5 (1804), (WEST page 738), the Court established that as long as a  
6 person does not seek monetary relief there is no longer a barrier  
7 for judicial review because plaintiffs are often interested in  
8 preventing certain kinds of agency actions. In *Marbury v.*  
9 *Madison* (1803) the Supreme Court commanded judges to abide by  
10 constitutional norms. In *Bowen v. USPS*, (1983) 459 U.S. 213(b) -  
11 "Of paramount importance is the right of the employee, who has  
12 been injured..." In *Lujan v. Defenders of Wildlife*, 504 U.S.  
13 555, (1992), (WEST page 787), the Court found that respondents  
14 had standing for an additional reason: because they suffered a  
15 '**procedural injury**' and the citizen-suit provision creates a  
16 'procedural right' to consultation in all 'persons'.

17 In a writ for *USPS v. Gregory*, No. 00-758, (2000), USPS  
18 argued that Civil Service Reform Act of 1978 (5 U.S.C. 7513(a))  
19 confirmed a Postal Employee's right to four specific procedural  
20 protections: (1) Advance notice; (2) Time to respond; (3)  
21 Counsel; and (4) a written Decision providing specific reasons  
22 for the agency's actions. (5 U.S.C. 7513(b) and (c)) - "Thus, on  
23 the one hand, the Reform Act strives to enable government  
24 managers to more effectively hire, and otherwise discipline their  
25 employees, while at the same time according employees their

1 requisite procedural protections. *LaChance v. Devall*, 178 F.3d  
2 1246, 1254 (Fed. Cir. 1999)."

3 GAO Report 10-78, December 2009, The Program for Reassessing  
4 Work provided to Injured Employees Is Under Way, but Actions Are  
5 Needed to Improve Program Management (exhibit 1). Page 13, Phase  
6 2, - Employee who have reached their Medical Maximum Improvement,  
7 - "Meet with the employee and, when requested, the employee's  
8 union representative to discuss their job offer..." Page 43,  
9 #10, - "Notify employees by letter at least 14 days in advance of  
10 employee interviews."

11 USPS Handbook EL-505, page 16, - "Any employee or supervisor  
12 responsible for making reports in connection with an injury who  
13 willfully fails, neglects, or refuses to do so; induces, compels,  
14 or directs an injured employee to forego filling a claim; or  
15 willfully retains any notice, report, or paper required in  
16 connection with an injury may be subject to a fine of not more  
17 than \$500 or 1 year in prison, or both. (20 CFR 10.23)."

18 20 CFR 10.126, - "The decision shall contain findings of fact  
19 and a statement of reasons." 10.118, - "The employer is  
20 responsible for submitting to OWCP all relevant and probative  
21 factual and medical evidence in its possession, or which it may  
22 acquire through investigation or other means."

23 USPS Handbook EL-307, Reasonable Accommodation, An  
24 Interactive Process, 223.1, - "Gaining the individual's  
25 participation is a key part of the process - that's what makes it

1 interactive..." 25, - "If you deny an individual's request for  
2 accommodation, you must notify the individual in writing of the  
3 denial as soon as possible. The denial must: - Be given in  
4 writing and in plain, specific language. - Give the reasons for  
5 denial. - Identify the individual or office that made the  
6 decision. - Provide the following: -- Notification of the  
7 individual's right to file an equal employment opportunity (EEO)  
8 complaint. - Notification of any other appeal rights to which  
9 the individual may be entitled. - Description of procedures  
10 available for informal dispute resolution. Make this  
11 determination only after you have made an individualized  
12 assessment of the situation and the individual in question and  
13 consulted with you Reasonable Accommodations Committee and Area  
14 law office."

15 In *Daniels v. Williams*, 474 U.S. 327, 337, (1986), (WEST page  
16 357) the Court found that the Due Process Clause of the  
17 Fourteenth Amendment is the source of three different kinds of  
18 constitutional protections. In *Cleveland Board of Education v.*  
19 *Loudermill* (1985) the Court said that the minimum process due is  
20 determined as a matter of federal constitutional law. In *Wester*  
21 *v. Doe*, 486 U.S. 592, (1988), (WEST page 769) the Court's warned  
22 that judicial review of all 'colorable constitutional claims'  
23 arising out of the respondent's dismissal may well be  
24 constitutional required.

25 In *Connecticut Light and Power v. NRC*, D.C. Cir. 673 F.2d 525

1 (1982), (WEST page 266), the Circuit Court found that an agency  
2 commits a '**serious procedural error**' when it fails to reveal  
3 information to allow "meaningful commentary". - "...These  
4 requirements, which serve important purposes of agency  
5 accountability and reasoned decision-making, impose a significant  
6 duty on the agency." (See *Home Box Office Inc. v. FCC*, 567 F.2d  
7 9, 55, (D.C. Cir. 1977) and *Greater Boston Television Corp. v.*  
8 *FCC*, 444 F2d. 841, 851, (D.C. Cir. 1970).)

9 *National Credit Union Administration v. First National Bank &*  
10 *Trust*, 522 U.S. 479, (1998) (WEST page 832) - " \*\*\* Our decision  
11 in *Air Courier* likewise, cannot be squared with the Court's  
12 decision in this action \*\*\*. The **postal employees** would have  
13 established standing under the Court's analysis in this  
14 action..."

15 U.S. EEO Commission, - "The Commission's federal sector case  
16 precedent has long defined an 'aggrieved employee' as one who  
17 suffers a present harm or loss with respect to a **term, condition,**  
18 **or privilege** of employment for which there is a remedy."

19

20 2. Deprivation of Rights Under the Color of Law -

21 Title 39 Section 233.1(b)(1)(i) - "The Office of Inspector  
22 General will investigate all allegations of violations of postal  
23 laws or misconduct by postal employees ..." (ii) - "The  
24 Inspection Service will investigate all allegations of violations  
25 of postal laws or misconduct by all other persons."

1       NLRB Case 13-CA-16195-P, 10 March 1979, - "...The  
2       Administrative Law Judge found that Respondent violated Section  
3       8(a) of the Act (National Labor Relations Act) by requiring  
4       employee Eddie L. Jenkins to submit to an interview with Postal  
5       Service inspectors, which the employee reasonably feared might  
6       result in disciplinary action..." THE REMEDY: - "Having found  
7       that the Postal Service has violated the NLRA in certain  
8       respects, I shall recommend that it be required to cease and  
9       desist there-from and from like of related conduct and to post  
10      appropriate notices."

11       USPS Publication 108, Threat Assessment Team Guide, 1-2, -  
12      "..., Each district must establish and maintain a Threat Assessment  
13      Team." 4-4 Incident Response, 1, - "The Human Resources Manager  
14      makes an initial assessment of the risk level and determines  
15      whether the Threat Assessment Team needs to intervene."

16       USPS Administrative Support Manual (ASM) 211.12 (exhibit 2),  
17      - "The Postal Inspection Service, a federal law enforcement  
18      agency, conducts audits and investigations of Postal Service  
19      programs and operations (18 U.S.C. 3061 and 39 U.S.C. 404(a)(7)),  
20      and is headed by the chief inspector, who reports directly to the  
21      postmaster general." Exhibit 211, page 16, Designation of  
22      Functions does not list "administrative" investigations.

23       In *Lybarger v. City of Los Angles*, 40 Cal. 3d 822 (1985) the  
24      Court found that the employee must be told -(1) his silence could  
25      be deemed insubordination, leading to administrative discipline,

1 and -(2) any statement made under the compulsion of the threat of  
2 such discipline (i.e. incriminating statements) could not be used  
3 against him in any subsequent criminal proceedings. (Also see  
4 *Spielbauer and Cleveland Board of Education v. Loudermill*  
5 (1985).)

6

7       3. Class Action -

8       GAO Report 10-78, December 2009 (exhibit 1) on page 41 shows  
9 50,031 employees affected by the National Reassessment Program  
10 out of 748,307 (6.68%). However, among Headquarters employees it  
11 shows of 11,370 management employees 70 are affected (0.62%).  
12 This clearly shows that the Program discriminates between  
13 management and labor employees.

14       The USPS five year Operating Statistics shows an increase of  
15 +63% headquarters positions between 2002 and 2006.

16       USPS Memorandum, 1 October 2007, (exhibit 5), - "Failure to  
17 afford an employee or applicant (qualified disabled) appropriate  
18 accommodations when necessary and/or requested, can lead to  
19 costly lawsuits."

20

21                    STANDARD OF REVIEW

22       The US Court of Appeals for the Ninth Circuit in *Flamingo*  
23 *Industries v. USPS* No. 01-15963, the Court stated "In 1996,  
24 Congress amended 28 USC section 1491, part of the codification of  
25 the Tucker Act, by enacting the Administrative Dispute Resolution

1 Act of 1996 (ADRA), Pub. L. 104-320, 110 Stat. 3870 (1996)."  
2 Footnote 5 - "... 28 USC section 1491(b)(4) imports Administrative  
3 Procedures Act (APA) standards of review... 28 USC 1491(b)(4)  
4 incorporates by reference the APA review standards into cases..."

5 Title 5 section 504 Congressional Findings: Section 202 of  
6 title II of Public Law 96-481 provided that: - "(a) The Congress  
7 finds that certain individuals, partnerships, corporations, and  
8 labor and other organizations may be deterred from seeking review  
9 of, or defending against, unreasonable governmental action  
10 because of the expense involved in securing the vindication of  
11 their rights in civil actions and in administrative proceedings."

12 Title 5 section 557 (d)(1)(A)(12) - "... violated shall be  
13 determined from the perspective of a reasonable person with  
14 knowledge of the relevant facts."

15 Title 5 section 702 - "A person suffering wrong because of  
16 agency action, or adversely affected or aggrieved by agency  
17 action within the meaning of a relevant statute, is entitled to  
18 judicial review thereof."

19 United States Constitution Amendment XIV Section 1. - "All  
20 persons born or naturalized in the United States, and subject to  
21 the jurisdiction thereof, are citizens of the United States and  
22 of the state wherein they reside. No state shall make or enforce  
23 any law which shall abridge the privileges or immunities of  
24 citizens of the United States; nor shall any state deprive any  
25 person of life, liberty, or property, **without due process of law**;

1 nor deny to any person within its jurisdiction the equal  
2 protection of the laws."

3 In *City of Monterey v. Del Monte Dunes* a 1999 case the  
4 Supreme Court confirmed that 42 U.S.C. 1983 granted plaintiffs  
5 the right to sue for violations of due process.

6 Title 42 section 2000(e) "Nothing contained in this Act shall  
7 relieve any government agency or official of its or his primary  
8 responsibility to assure nondiscrimination in employment as  
9 required by the Constitution and statutes or of its or his  
10 responsibilities under Federal Order 11478 relating to equal  
11 employment opportunity in the Federal Government."

12 Title 39 section 1001 - (b) "... The Postal Service shall  
13 establish procedures, in accordance with this title, to assure  
14 its officers and employees meaningful opportunities for promotion  
15 and career development and to assure its officers and employees  
16 full protection of their employment rights..."

17 Title 39 section 409 - (a)(B)"...shall not be immune under  
18 any other doctrine of sovereign immunity from suit in Federal  
19 court by any person for any violation of any of those provisions  
20 of law by an officer or employee of the Postal Service

21 Title 29 section 401 Congressional declaration of findings,  
22 purposes and policy - "... (b) protection of rights of employees  
23 and the public; "The Congress further finds, from recent  
24 investigations in the labor and management fields, that there  
25 have been a number of instances of breach of trust, corruption,

1 disregard of the rights of individual employees, and other  
2 failures of observe high standards of responsibility and ethical  
3 conduct which require further and supplementary legislation that  
4 will afford necessary protection of the rights and interests of  
5 employees and the public..."

6 Civil Procedures, A Modern Approach, 2nd Addition, Chapter I  
7 Choosing a System of Procedure, - "... Established procedures lie  
8 at the heart of due process and as important to the attainment of  
9 ultimate justice as the factual merits of a case..."

10 The Court found in *Flamingo Industries v. USPS*, D.C. No. CV-  
11 00-02484-MMC, page 12504 B (6) "Having determined that Congress  
12 has waived the Postal Service's immunity, we turn to the second  
13 inquiry, 'whether the source of substantive law upon which the  
14 claimant relies provides an avenue for relief'. *Meyer*, 510 U.S.  
15 at 484." Page 12506 (7) "The Postal Service's sue-and-be-sued  
16 waiver of immunity has created a presumption that the cloak of  
17 sovereignty has been withdrawn and the Postal Service should be  
18 treated as a private corporation. See *Franchise Tax Board*, 467  
19 U.S. at 520." Page 12508 (8) "We hold that the Postal Service  
20 can be sued under federal antitrust laws because Congress has  
21 striped the Postal Service of its sovereign status by launching  
22 it into the commercial world as a sue-and-be-sued entity akin to  
23 a private corporation... 'conduct-based' immunity can apply...  
24 Accordingly, our holding that the Postal Service does not enjoy  
25 status-based immunity..."

#### Additional Considerations:

4 Civil Resource Manual Chapter 36, Effect of Declaratory  
5 Judgment Act, - "... Another barrier to judicial review of  
6 administrative action was removed by section 2 of Public Law No.  
7 94-574, which amended 28 U.S.C. section 1331(a) ... This provision  
8 persuaded the Supreme Court to conclude that, subject to  
9 preclusion-of-review statutes, jurisdiction to review agency  
10 action is conferred by 28 U.S.C. section 1331 ... Similarly, the  
11 Declaratory Judgment Act, 28 U.S.C. section 2201, is not an  
12 independent source of federal jurisdiction. The purpose of the  
13 Act is merely to provide an **additional remedy**, once jurisdiction  
14 is found to exist on another ground . . ."

15        Federal Practice Manual for Legal Aid Attorneys, Chapter 9.3  
16 Declaratory Judgment Act, - "The Declaratory Judgment Act offers  
17 a unique mechanism by which advocates may seek to **remedy** ongoing  
18 violations of statutory or constitutional law..." (See Tucker  
19 Act)

20       *Harlow v. Fitzgerald*, 457 U.S. 800, 813-19, (1982), - "...  
21 After all, courts will generally decide only whether the  
22 defendant violated 'clearly established' law; this frequently  
23 will require or entail determination of whether the agency action  
24 in question **was or was not unlawful...**" (WEST page 742)

25      *Association of Data Processing Service Organizations, Inc. v.*

1 *BOG of the Federal Reserve System*, D.C. Cir. 745 F.2d 677 (1984),  
2 - "... the court shall hold unlawful and set aside such rule if the  
3 court finds that the rule is not supported by substantial  
4 evidence in the rulemaking record... **taken as a whole.**" (WEST page  
5 538) (See *Nebbia v. New York*, 291 U.S. at 536(1934))

6 *Toilet Goods Ass'n v. Gardner*, 387 U.S. 158, (1967) (WEST  
7 page 868) - "... Experience dictates, on the contrary, that it can  
8 hardly be hoped that some federal judge somewhere will not be  
9 moved as the Court is here, by the **cries of anguish and distress**  
10 of those regulated, to grant a disruptive injunction."

11  
12 Scope of Review

13 *Flamingo Industries LTD v. USPS*, No. 01-15963, 23 August  
14 2002, B - "...28 U.S.C. 1491(b)(4) provides that such decisions  
15 may only be invalidated by a federal court applying the  
16 deferential APA standard of review codified at **5 U.S.C. 706.**"

17 In *Professional and Patients For Customized Care v. Shalala*,  
18 56 F.3d 73 (1<sup>st</sup> Cir. 1993) (WEST page 296), the U.S. Court of  
19 Appeals found that the '**legal effects test**' will show if the rule  
20 as issued either operates as a binding norm or it does not. At  
21 444 F.2d at 851-52, (WEST page 672), - "This conception of  
22 judicial review is sometimes call the '**hard look doctrine**'  
23 because of its focus on insuring that agencies have looked  
24 carefully and thoughtfully at the problems under consideration.  
25 By the early 1970's, this process-oriented review had become a

1 settled part of administrative law, and it remains a bedrock of  
2 the modern system of federal judicial review ..."

3

4 Therefore with a cry of anguish and distress I asked the  
5 Court to conduct a legal effects test and a hard look *De Nova*  
6 review of: (1) USPS National Reassessment Program. (2) USPS  
7 Inspection Services use of their Federal Law Enforcement  
8 Authority to conduct Administrative Investigations for  
9 Management.

10

REMEDIES

11 1. Pursuant to the Tucker Act I ask the Court to issue a  
12 Declaratory Judgment as to weather the U.S. Postal Service  
13 Inspection Service Officials using their Federal Law Enforcement  
14 Authority to conduct Administrative Investigations for Management  
15 is Lawful or Unlawful.

16 2. Pursuant to the Tucker Act I ask the Court to issue a  
17 Declaratory Judgment as to weather the U.S. Postal Service  
18 National Reassessment Program is Lawful or Unlawful.

19 3. If the Court finds injury to my protected Employment  
20 Civil Rights to issue appropriate monetary penalty and that the  
21 USPS pay my legal fees.

22 Dated this 22 day of February, 2011,

23   
24 Lance McDermott  
1819 So 104 ST  
Seattle, WA 98168  
206 763-6268

Exhibits:

- 1 – GAO Report 10-78, December 2009, The Program for Reassessing Work Provided to Injured Employees Is Under Way, but Actions Are Needed to Improve Program Management.,
- 2 – Statement of APWU Clerk Steward Chuck Lee, 22 February 2011
- 3 – USPS Administrative Support Manual (ASM) Chapter 2 Audits and Investigations
- 4 – USPS Call Center In-sourcing Program, 7 March 2007
- 5 – USPS Reasonable Accommodation Policy Statement, 1 October 2007

December 2009



Highlights of GAO-10-78, a report to congressional requesters

## Why GAO Did This Study

Between 50,000 and 60,000 United States Postal Service (Service) employees—or 7 to 8 percent of the Service's workforce—occupied a modified work assignment during fiscal year 2008. The Service must provide these assignments to employees with workplace injuries if work is available to perform within their medical restrictions. Historically, the Service has returned employees to work as soon as possible, partly to reduce its costs for workers' compensation. In 2006, the Service initiated a program, the National Reassessment Process, to ensure that modified work assignments are medically suitable and necessary to carry out the Service's mission. This requested report addresses (1) the goal of the program, (2) how it is being implemented, and (3) the program's status and outcomes. To perform its work, GAO analyzed data and documentation, visited four districts selected to illustrate a range of conditions, and interviewed Service officials.

## What GAO Recommends

GAO recommends that the Service establish program completion timelines, track and measure outcomes, and disclose limitations of its reported cost savings. The Service agreed with GAO's third recommendation and disagreed with the other two. While GAO modified one recommendation in response to the Service's comments, GAO retained all three to encourage program completion, accountability, and transparency.

View GAO-10-78 or key components. For more information, contact contact Phillip Herr, (202) 512-2834, or [Herrp@gao.gov](mailto:Herrp@gao.gov).

## U.S. POSTAL SERVICE

### The Program for Reassessing Work Provided to Injured Employees Is Under Way, but Actions Are Needed to Improve Program Management

## What GAO Found

The goal of the National Reassessment Process is to ensure that all employees in modified work assignments are performing work that is both suitable to their medical restrictions and necessary to the Service's mission. Among other things, the program aims to eliminate what Service officials call "make-work" assignments which, over time, occurred when factors such as increasing automation and declining mail volumes reduced the amount of manual, sedentary, and useful work available for these employees to perform. The number of employees reassessed under the program is not readily available nationwide because the Service does not aggregate district data. However, on September 30, 2008, there were 31,044 employees in modified work assignments, all of whom may have been reassessed under the program.

The program is being implemented in three phases in the Service's 74 districts. In Phase 1, the Service ensures that all employee medical records are current, and categorizes the employees based on their medical status. In Phases 2 and 3, the Service attempts to find each employee medically suitable and necessary work. If successful, the Service provides these employees with modified work assignments. However, when suitable work is not available, employees become eligible for wage loss compensation (workers' compensation). Specifically, because employees in Phase 2 have reached their maximum medical improvement, they are not expected to return to work for the Service and, thus, may receive workers' compensation indefinitely, whereas Phase 3 employees are eligible for workers' compensation for only the number of hours they cannot work for the Service. Initially, the Service implemented each phase of the program sequentially; however, in July 2009, it began allowing some districts to conduct Phases 2 and 3 concurrently to expedite the program's completion. The Service has not established milestones for completing the program, but, according to Service officials, they expect the program to be fully implemented by September 30, 2010.

After 3 years, none of the Service's districts had completely implemented the program, and implementation in most is far from complete. Available data on employee outcomes are limited and preliminary because implementation is ongoing, and the Service does not track employees who receive medically suitable and necessary work—the goal of the program. The Service achieves program cost savings when, for example, employees return to full duty, retire, resign, or perform modified work assignments. However, when suitable work is not available, some employee outcomes could increase the Service's short- and long-term costs for workers' compensation. For the year ending June 30, 2009, workers' compensation costs totaled about \$1.1 billion and, in 2008, the Service estimated that its future liability for these costs totaled about \$8 billion. The Service reported to the Congress that the program saved \$146 million in fiscal year 2008. However, the Service did not disclose that these reported savings reflect neither the Service's total gross savings nor its net savings, nor any other limitations in its cost estimation methodology.

**Figure 2: Key NRP Activities, Stages, and Possible Employee Outcomes, by Phase**

Phase 1: Employees with modified injuries	Phase 2: Employees who have reached their MMI	Phase 3: Employees who have not reached their MMI
<p><b>Stages in phase:</b> None</p> <p><b>13 steps</b></p> <p><b>Key activities:</b></p> <ul style="list-style-type: none"> <li>-Identify all employees with workplace injuries who are in (or capable of working in) modified work assignments.</li> <li>-Ensure that employee information, including medical documentation of the employee's work restrictions, is up to date and, where necessary, request updated documentation.</li> <li>-Ensure that all employees are properly classified according to whether they have, or have not, reached their MMI.</li> <li>-Validate that all records have been updated and that employees have been properly sorted according to their physician's determination of each employee's MMI status (done by headquarters officials).</li> </ul> <p><b>Possible employee outcomes:</b></p> <p>Employee may:</p> <ul style="list-style-type: none"> <li>-Return to full duty if the employee's medical documentation indicates, for example, that he or she has fully recovered from his or her injury.</li> </ul>	<p><b>Stages in phase:</b></p> <ul style="list-style-type: none"> <li>-Job search (9 steps)</li> <li>-Job offer (6 steps)</li> <li>-No work available (NWA) (15 steps)</li> </ul> <p><b>30 steps</b></p> <p><b>Key activities:</b></p> <ul style="list-style-type: none"> <li>-Identify all necessary work available within the district.<sup>a,b</sup></li> <li>-Assess whether the available work can be accomplished within an employee's medical restrictions.</li> <li>-Where medically suitable work is available, <i>prepare a job offer for each employee.</i> (This may be either a new job offer, or a job reflecting the employee's prior modified assignment.)</li> <li>-When no medically suitable work is available, develop a preliminary list of employees with NWA determinations for review and approval by district management, and double check each of these employees' files for accuracy to ensure, for example, that job searches for each employee were performed correctly.</li> <li>-Approve preliminary NWA list and meet with unions to discuss the list.</li> <li>-Notify affected employees of the Service's NWA determination.</li> <li>-Meet with employee and, when requested, the employee's union representative to discuss the job offer and provide the employee with an opportunity to update his or her medical records.<sup>c</sup></li> </ul> <p><b>Possible employee outcomes:</b></p> <p>Employee may:</p> <ul style="list-style-type: none"> <li>-Be placed in a modified work assignment (i.e., either the same medically suitable and necessary work assignment that he or she performed before the NRP or a new medically suitable and necessary work assignment);</li> <li>-Return to full duty;</li> <li>-Retire or resign from the Service; or</li> <li>-Receive an NWA determination—(i.e., the Service was unable to find a necessary and medically suitable work assignment for the employee).</li> </ul>	<p><b>Stages in phase:</b></p> <ul style="list-style-type: none"> <li>-Implementation (6 steps)</li> <li>-Job offer (4 steps)<sup>d</sup></li> <li>-New medical documentation/new injury (3 steps)</li> </ul> <p><b>13 steps</b></p> <p><b>Key activities:</b></p> <ul style="list-style-type: none"> <li>-Identify all available necessary work (from work conducted during Phase 2).<sup>a</sup></li> <li>-Update records to ensure that all employees who have not reached their MMI are listed and that all employees' files are complete and still up to date.</li> <li>-Conduct job searches within the Service for employees and hold work status meetings with employees to discuss possible work assignments.<sup>d</sup></li> <li>-Assess employees with new medical documentation or a new injury to determine whether medically suitable and necessary work is available for these employees.</li> </ul> <p><b>Possible employee outcomes:</b></p> <p>Employee may:</p> <ul style="list-style-type: none"> <li>-Return to full duty, or</li> <li>-Retire or resign from the Service.</li> </ul> <p>The remaining employees receive one of three possible work determinations:</p> <ul style="list-style-type: none"> <li>-a "full day work" determination—(i.e., the number of hours of medically suitable and necessary work identified by the Service matches the number of hours the employee is allowed to work by his or her physician);</li> <li>-a "partial day work" determination—(i.e., the number of hours of medically suitable and necessary work identified by the Service is less than the number of hours the employee is permitted to work);<sup>e</sup> or</li> <li>-a "complete day no work" determination—(i.e., the Service could not identify any necessary work within the employee's craft, tour, and facility, and within his or her medical restrictions).<sup>f</sup></li> </ul>

Source: GAO analysis of Service data.

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reevaluation. The future process will be referred to as the “National Assessment Process,” according to senior headquarters officials.

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**Some Employee Outcomes Vary, Depending on Phase**

According to Service officials, during any phase of the NRP, employees may return to full duty (i.e., return to their preinjury job), retire, or resign from the Service. In addition, assuming that necessary and medically suitable work exists, the outcomes for employees in Phases 2 and 3 are the same—employees may continue working in either a new, medically suitable assignment, or in their prior modified assignment.<sup>20</sup> Employee outcomes vary between these phases, however, when sufficient necessary and medically suitable work is not available for the employees to perform. For example, when work is not available, the Service provides employees in Phase 2 (those who have reached their MMI) with an NWA determination and sends them home, along with the necessary forms for filing a wage loss claim to receive compensation from DOL’s OWCP for the number of hours they could not work for the Service.<sup>21</sup> In contrast, in Phase 3, when sufficient necessary and medically suitable work is not available, the Service provides employees who have not reached their MMI with either a (1) “partial day work” determination or a (2) “complete day no work” determination. These employees also are referred to DOL’s OWCP for wage loss compensation.<sup>22</sup> Figure 3 illustrates the various NRP outcomes experienced by employees in modified work assignments, depending on the employees’ MMI status.

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<sup>20</sup>In Phase 3, such an employee outcome is referred to as a “full day work” determination.

<sup>21</sup>In certain cases, DOL may decide that an individual is eligible not only to receive wage loss compensation but also to participate in its vocational rehabilitation training program.

<sup>22</sup>Wage loss compensation for these employees includes compensation for (1) the number of hours the employees could not work for the Service because of their medical restrictions and (2) the additional work hours for which the Service did not have medically suitable and necessary work for the employees to perform.

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each employee's commuting area. If still unsuccessful, the Service must (for these employees) expand its job search to other facilities beyond the boundary of each employee's current district.<sup>29</sup>

According to senior headquarters officials, the time and resources required to correctly and consistently implement the NRP are necessary to ensure that each employee's job restoration rights are fully protected. These officials also noted that the rigorous process is needed because the NRP can affect whether an employee retains a postal job. They further explained that the methodical nature of the NRP process

- helps ensure that the Service complies with all applicable laws, regulations, and contractual obligations related to employees with workplace injuries, and
- decreases the likelihood of successful grievances, appeals, and other actions against the Service.<sup>30</sup>

Senior headquarters officials told us that in 2006 they initially expected that all phases of the NRP would be completed by January 2010. The NRP's implementation, however, has taken longer than anticipated. Thus, as of August 2009, these officials estimated that the entire process would be completed by September 30, 2010. However, without specific milestones and clear upper management support across the Service's areas and districts, it is unclear when the NRP will be completed.

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<sup>29</sup>The majority of the job search process is the same for employees who have reached their MMI regardless of when (i.e., more than 1 year, or less than 1 year, after their date of eligibility for compensation). However, for employees who reached their MMI in more than 1 year, postal managers do not need to expand their search for jobs beyond the district's boundaries.

<sup>30</sup>As of July 2009, three of the four largest postal unions had filed a total of six national-level grievances related to the NRP process. The grievances cover a broad scope of issues, ranging from the consideration of seniority when making job offers under the NRP to a challenge of an entire phase of the NRP process. As of July 2009, one grievance had been settled, while the others were either pending a decision by the Service or pending arbitration. On the local level, employees have filed a number of grievances under their union contracts related to their NRP work determinations. In addition to filing grievances, employees have other avenues of redress, including filing actions before the Merit Systems Protection Board and before the Equal Employment Opportunity Commission. Generally, the board adjudicates individual federal employee appeals when an employee believes he or she has suffered an adverse personnel action. The commission adjudicates matters in which the federal employee believes he or she has suffered an action in violation of workplace discrimination laws.

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- reassignment to a new medically suitable and necessary work assignment, or an
- NWA determination (i.e., the Service could not find necessary and medically suitable work for employees to perform).

Although the Service tracks and aggregates data on some NRP employee outcomes, it does not track or aggregate data on others. According to senior headquarters officials, they do not track or aggregate data on all employee outcomes because the data are employee-specific and recorded and stored at each of its districts. They explained that aggregating data for the thousands of employees nationwide is challenging, given limited staff resources, the scope of effort required, and the absence of an automated system for tracking and reporting information on the status of employees in modified work assignments. While senior headquarters officials were able to provide data on employee outcomes for 616 of 1,738 (about 35 percent) employees that were reviewed in the eight districts that had completed, or nearly completed, Phase 2 as of June 30, 2009,<sup>33</sup> they were unable to provide similar data for the remaining 1,122 employees (about 65 percent). Senior headquarters officials told us that data on these employee outcomes were unavailable principally because the Service does not track or aggregate the number of employees who

- remained in their prior work assignment because the Service determined through the employees' NRP review that the work assignment was medically suitable and necessary work, or
- received a new modified work assignment because their prior assignment was determined to be either medically unsuitable or unnecessary to the Service's mission.<sup>34</sup>

According to senior headquarters officials, the Service does not need to track or aggregate these outcomes because both outcomes indicate that the goal of the NRP has been achieved. In its comments on a draft of this

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<sup>33</sup>The Service provided us with data on Phase 2 employee outcomes for eight districts as of June 30, 2009. Six of these districts—Western New York, Dakotas, New Hampshire-Vermont, Westchester, Metro Caribbean, and Honolulu—had completed Phase 2, while the 2 others—San Diego and Boston—had essentially completed this phase at that time. The Service was unable to provide us with data for these districts as of August 31, 2009.

<sup>34</sup>In addition, senior headquarters officials do not track or aggregate data on employees with outcomes that have not been resolved because of grievances or appeals.

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report, the Service said that it intends to deploy a new national claims management program in February 2010 that will enhance its ability to track and measure NRP progress and enable cost efficient aggregation of NRP data. However, the Service did not indicate that it planned to use the new program to track and measure NRP employee outcomes.

For the remaining 616 employees (of 1,738) whose specific outcomes headquarters tracked data indicate that

- 103 employees returned to full duty,
- 223 employees retired,
- 257 employees received NWA determinations, and
- 33 employees had “other” outcomes.<sup>35</sup>

Senior headquarters officials also provided us with preliminary data on some employee outcomes for the districts implementing Phase 3 as of August 31, 2009. Most of these data were very limited because the majority of the districts were in the early stages of implementing Phase 3 and, thus, had very few employee outcomes to report. Available data were most complete for the four districts that piloted Phase 3 and, consequently, had been implementing Phase 3 the longest. Outcomes for the 2,301 employees reviewed in these four districts indicated that

- 1,039 employees received a “full day work” determination (about 45 percent),
- 589 employees received a “partial day work” determination (about 26 percent), and
- 673 employees received a “complete day no work” determination (about 29 percent).

While these data provide some useful insights into the districts’ early experience with implementing Phase 3, outcomes in this phase are

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<sup>35</sup>According to senior headquarter officials, “other” outcomes include, but are not limited to, employees who had (1) either been terminated or transferred, (2) their MMI status rescinded by their treating physician, or (3) received a new medical assessment from their physician stating that they were now totally disabled and unable to work for the Service.

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nor its total net savings. For example, the protocols used to estimate the Service's savings from Phases 1 and 2

- do not account for savings accruing from all of the possible NRP employee outcomes. For example, although the protocols account for savings accruing for three of the Phase 2 employee outcomes—return to full duty, retirement, and resignation—the Service does not account for savings that, in some cases, might accrue from NWA determinations.<sup>43</sup>
- use “benchmark” cost savings, such as the Service’s “lowest fully loaded work hour” for employees—regardless of their actual salaries—to quantify savings associated with the employee outcomes.<sup>44</sup>
- do not account for savings from employee outcomes that accrue beyond 12 months after the outcome occurred. For example, when an employee retires as a result of the NRP, the Service only counts the savings that accrue for the first 12 months after the date of retirement.
- do not offset costs, such as the additional OWCP expenses that accrue from Phase 2 NWA determinations, and do not offset increases in the Service’s operational costs resulting from the NRP’s implementation.

Because the goal of the NRP is to ensure that all employees with workplace injuries in modified work assignments are performing medically suitable and necessary work—not to produce cost savings—senior headquarters officials told us that they intentionally designed the protocols to arrive at rough estimates that understate the NRP’s savings. In addition, they told us that it was not feasible to precisely estimate savings resulting from the NRP because the savings are specific to each employee’s circumstances. Furthermore, they said that implementing a more rigorous process for more precisely estimating NRP savings would place unreasonable and unnecessary demands on available staff. Thus, in their view, their current estimating approach is adequate for the Service’s needs.

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<sup>43</sup>For example, as discussed, if an employee receives an NWA determination and is successful in obtaining a new job with a salary that is equal to or greater than the salary he or she received from the Service, the Service no longer incurs any OWCP costs for this employee.

<sup>44</sup>The “lowest fully-loaded work hour” represents the salary and benefits, such as annual leave and retirement, that the Service pays to employees in its lowest clerk position. According to senior headquarters officials responsible for implementing the NRP, this position is a “Clerk 4.”

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**Appendix II: Methodology for Determining  
Number of Service Employees Who Occupied  
(or Could Have) a Modified Work Assignment**

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eliminated data fields that were not relevant to our review, such as information about the employees' pay locations.

We then analyzed the data to determine the number of unique employees contained in the Service's workbooks.<sup>5</sup> In total, there were 59,824 unique employees at the start of our analysis. The majority of these employees (51,516 of 59,824 or, about 86 percent) had only one line of data, or "record," in the workbooks. However, the remaining 8,308 employees had more than one record during fiscal 2008.<sup>6</sup> To ascertain the correct employee record to use in these cases, we devised a protocol for deleting all but the most recent of the employees' records.<sup>7</sup> Thus, at the completion of this activity, we had one record for each of these 8,308 employees.

To determine which of the 59,824 employees occupied a modified work assignment during fiscal year 2008, we ran a frequency analysis on the employees' work status data. In total 50,031 of the 59,824 employees were coded "1," meaning that they were in a modified assignment at some point during fiscal year 2008. The remaining 9,793 employees, however, had a variety of other work status codes, including 53 that we eliminated because data irregularities precluded us from determining anything about the employees' work status. This left us with 9,740 employees with data indicating that the employees had occupied a modified work assignment at some point in the past, but, for example, subsequently had retired or otherwise separated from the Service. Thus, sufficient data were not available for us to determine whether these employees actually occupied a modified work assignment during fiscal year 2008. However, based on our knowledge of the Service's data, and our discussions with senior headquarters officials, we determined that each of these 9,740 employees could have occupied a modified work assignment during fiscal year 2008. We shared our findings with senior headquarters officials who indicated that the results of our analysis were reasonable.

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<sup>5</sup>To ensure that employees in these assignments were counted only once in our analysis, we generally used the employees' Social Security numbers as their unique identifier. However, five of the districts' workbooks did not provide the employees' Social Security numbers, so we created other, unique identifiers for these employees.

<sup>6</sup>Multiple records occur when, for example, an employee reaches his or her maximum medical improvement and is moved from a limited duty assignment to a rehabilitation assignment. The 8,308 employees had from 2 to 10 records. Determining why these employees had up to 10 records was beyond the scope of this review.

<sup>7</sup>This protocol was approved by senior Service headquarters officials with overall responsibility for the workbooks and for implementing the NRP.

# Appendix III: Number, Percentage, and Distribution of Modified Work Assignments Nationwide during Fiscal Year 2008

As discussed in the body of this report, our analysis of Service data found wide variability among Service districts nationwide in the number, percentage, and distribution of employees in limited duty and rehabilitation assignments (modified work assignments) during fiscal year 2008. For example, in Dallas, over 12 percent of all employees in the district (1,719 of 14,150) were in a modified work assignment; while in the Metro Caribbean district, fewer than 2 percent occupied one of these assignments during fiscal year 2008.<sup>1</sup> In addition, about 50 percent of the 50,031 employees in modified work assignments during fiscal year 2008 worked in 30 percent of the Service's organizations (24 of 81 organizations, including headquarters).<sup>2</sup> Table 2 shows the number and percentage of employees in modified work assignments nationwide and the distribution of these assignments, by organization, during fiscal year 2008.

**Table 2: Number, Percentage, and Distribution of Service Employees in Modified Work Assignments Nationwide during Fiscal Year 2008**

Rank	Service organization (district or headquarters)	Number of employees in limited duty assignments	Number of employees in rehabilitation assignments	Total number of employees in modified assignments	Total number—all employees	Percentage of workforce in modified assignments
1	Dallas	792	927	1,719	14,150	12.15%
2	San Francisco	479	684	1,163	9,651	12.05
3	Bay Valley	1,255	189	1,444	12,276	11.76
4	Detroit	698	253	951	8,412	11.31
5	Los Angeles	1,131	181	1,312	11,932	11
6	Northern Ohio	1,096	186	1,282	12,019	10.67
7	Santa Ana	720	753	1,473	14,059	10.48
8	Colorado Wyoming	671	704	1,375	13,708	10.03
9	Seattle	954	174	1,128	11,282	10
10	Louisiana	794	132	926	9,413	9.84

<sup>1</sup>The Service's headquarters organization had the lowest percentage (70 of 11,370 employees or, fewer than 1 percent) of employees in modified work assignments during fiscal year 2008.

<sup>2</sup>As discussed in appendix II, our analysis of Service data indicates that 50,031 employees with workplace injuries occupied a modified work assignment during fiscal year 2008. Up to 9,740 other employees could have been in such an assignment during the same time period. However, for the purpose of this analysis, we limited our analysis to the 50,031 employees who, based on the Service's data, definitely occupied a modified work assignment during this period.

**Appendix III: Number, Percentage, and  
Distribution of Modified Work Assignments  
Nationwide during Fiscal Year 2008**

Rank	Service organization (district or headquarters)	Number of employees in limited duty assignments	Number of employees in rehabilitation assignments	Total number of employees in modified assignments	Total number— all employees	Percentage of workforce in modified assignments
11	Atlanta	1,245	166	1,411	14,502	9.73
12	Pittsburgh	508	127	635	6,737	9.43
13	Cincinnati	740	289	1,029	10,953	9.39
14	Sacramento	549	430	979	10,863	9.01
15	Southeast Michigan	567	79	646	7,271	8.88
16	San Diego	496	495	991	11,262	8.8
17	South Florida	534	319	853	9,832	8.68
18	Sierra Coastal	365	531	896	10,332	8.67
19	Ft. Worth	363	371	734	8,540	8.59
20	Chicago	571	178	749	9,315	8.04
21	Columbus	440	87	527	6,719	7.84
22	Houston	840	170	1,010	13,010	7.76
23	Alaska	118	25	143	1,867	7.66
24	Suncoast	585	324	909	11,914	7.63
25	Oklahoma	275	328	603	8,053	7.49
26	Lakeland	702	253	955	12,923	7.39
27	Northern Illinois	387	392	779	10,729	7.26
28	Philadelphia	722	140	862	11,926	7.23
29	Northern Virginia	302	157	459	6,457	7.11
30	Portland	578	40	618	8,803	7.02
31	S.E. New England	337	139	476	6,896	6.9
32	North Florida	351	295	646	9,531	6.78
33	Capital District	423	188	611	9,347	6.54
34	N. New Jersey	580	213	793	12,132	6.54
35	Greater Indiana	557	286	843	13,161	6.41
36	Salt Lake City	185	92	277	4,332	6.39
37	Central Illinois	719	50	769	12,444	6.18
38	Big Sky	106	55	161	2,614	6.16
39	Triboro	476	150	626	10,217	6.13
40	Central Pennsylvania	651	51	702	11,536	6.09
41	Connecticut	433	180	613	10,082	6.08
42	Erie	241	23	264	4,353	6.06
43	Arizona	500	176	676	11,265	6
44	Long Island	450	44	494	8,333	5.93
45	Massachusetts	339	249	588	9,989	5.89

**Appendix III: Number, Percentage, and  
Distribution of Modified Work Assignments  
Nationwide during Fiscal Year 2008**

Rank	Service organization (district or headquarters)	Number of employees in limited duty assignments	Number of employees in rehabilitation assignments	Total number of employees in modified assignments	Total number— all employees	Percentage of workforce in modified assignments
46	Gateway	504	239	743	12,679	5.86
47	Nevada Sierra	275	30	305	5,216	5.85
48	Rio Grande	677	85	762	13,084	5.82
49	Greensboro	559	69	628	10,880	5.77
50	South Jersey	253	143	396	7,027	5.64
51	Central New Jersey	288	125	413	7,494	5.51
52	Honolulu	101	55	156	2,836	5.5
53	Boston	176	169	345	6,506	5.3
54	New Hampshire - Vermont	224	91	315	6,024	5.23
55	Baltimore	274	182	456	9,044	5.04
56	Greater Michigan	375	113	488	9,727	5.02
57	Mid-Carolinas	427	60	487	9,796	4.97
58	Appalachian	315	47	362	7,400	4.89
59	Richmond	238	204	442	9,064	4.88
60	Tennessee	571	124	695	14,578	4.77
61	Albuquerque	74	111	185	3,884	4.76
62	Western New York	291	69	360	7,747	4.65
63	Central Florida	342	121	463	9,974	4.64
64	Hawkeye	249	166	415	9,120	4.55
65	South Georgia	179	104	283	6,365	4.45
66	Maine	93	84	177	4,067	4.35
67	Greater S.Carolina	212	83	295	7,283	4.05
68	Arkansas	222	38	260	6,427	4.05
69	Mid-America	259	173	432	11,044	3.91
70	Alabama	212	171	383	9,857	3.89
71	Albany	151	150	301	7,813	3.85
72	Spokane	139	45	184	5,022	3.66
73	Central Plains	211	156	367	10,338	3.55
74	Dakotas	112	52	164	5,134	3.19
75	New York	407	67	474	15,146	3.13
76	Northland	451	31	482	15,781	3.05
77	Kentuckiana	159	139	298	10,034	2.97
78	Mississippi	103	53	156	5,576	2.8
79	Westchester	73	54	127	6,424	1.98
80	Metro Caribbean	27	35	62	3,404	1.82

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**Appendix III: Number, Percentage, and  
Distribution of Modified Work Assignments  
Nationwide during Fiscal Year 2008**

Rank	Service organization (district or headquarters)	Number of employees in limited duty assignments	Number of employees in rehabilitation assignments	Total number of employees in modified assignments	Total number— all employees	Percentage of workforce in modified assignments
81	Headquarters	34	36	70	11,370	0.62%
<b>Total</b>		<b>35,082</b>	<b>14,949</b>	<b>50,031</b>	<b>748,307</b>	<b>6.68%</b>

Source: GAO analysis of Service data.

*HES/5*

*1-12*

# Appendix IV: Description of NRP Activities, by Phase and Step

Figures 6, 7, and 8 provide additional information about the NRP, including a description of activities, by phase and step.

**Figure 6: Description of NRP Activities in Phase 1**

Step	Responsible team/member	Phase 1	Activity description
1	• District Injury Compensation Specialist	Identify all employees in modified work assignments	
2	• Area National Assessment Process Injury Compensation Specialist	Transfer information about these employees to the NRP workbook	
3	• Area Injury Compensation Manager • Area Medical Function Representative • Area Operations Team Leader	Brief senior district management on NRP Phase 1	
4	• District injury compensation staff	Identify employees in modified work assignments who require medical review	
5	• District medical staff • District injury compensation staff	Review all employees identified in step 4; determine if medical updates are required	
6	• District medical staff • District injury compensation staff • District labor relations staff	Follow up on employee medical update requests	
7	• District Assessment Team (DAT) including operations, injury compensation and medical staffs	DAT verifies current job offer matches tasks performed	
8	• District medical staff • District labor relations staff	Ensure procedures for light duty assignments are in effect, enabling identification and tracking of these employees <sup>a</sup>	
9	• District medical staff	Identify veterans-preference eligible employees in light duty assignments	
10	• District Injury Compensation Specialist or staff	Update NRP workbook to ensure all veterans in modified work assignments are properly recorded	
11	• District Injury Compensation Specialist or staff	Create NRP file for all employees in modified work assignments to ensure that all necessary documents are on file	
12	• Area injury compensation team	Review injury compensation file and NRP file for employees in all modified work assignments to verify that the NRP file is complete and accurate in preparation for reassessing employees	
13	• Area Injury Compensation Manager	Area injury compensation staff review NRP Phase 1 actions – all aspects must be verified as accurately completed	

Source: GAO analysis of Service data.

<sup>a</sup>In some cases, the Service also provides modified work assignments to employees injured off-the-job. These assignments are called "light duty" assignments. However, they are beyond the scope of our review.

**Appendix IV: Description of NRP Activities,  
by Phase and Step**

**Figure 7: Description of NRP Activities in Phase 2**

<b>Phase 2<sup>a</sup></b>		
<b>Step</b>	<b>Responsible team member</b>	<b>Activity description</b>
1	• Headquarters Injury Compensation Team Leader	Train area and district NRP teams on Phase 2 search process
2	• Area NRP team	Introduce and initiate NRP Phase 2 with district senior staff
3	• District senior management • Area and district injury compensation team leaders • Area and district operations team leaders • Area and district labor relations managers	Hold meeting with all applicable union representatives
4	• Area injury compensation team • District injury compensation staff	Update NRP workbooks to include all employees who have reached their maximum medical improvement (MMI), i.e., employees in rehabilitation assignments, and employees who have not reached their MMI, i.e., employees in limited duty assignments
5	• Area NRP team	Meet with district NRP team to discuss "necessary work" assignments
6	• Area and district NRP teams	Prepare local commuting area documentation for employees who have reached their MMI
7	• Area NRP team	Perform job searches for all employees who reached their MMI in less than a year to identify potential rehabilitation assignments within their local commuting area
8	• Area and district NRP teams	Perform job searches for all employees who reached their MMI in more than a year to identify potential rehabilitation assignments within their local commuting area
9	• Area and district NRP teams	Meet to discuss the status of all employees who have reached their MMI
10	• District Injury Compensation Manager • District operations team	District operations team submits the DAT-approved proposed job offers (i.e., rehabilitation duties worksheets) to the senior manager for approval, thus demonstrating that the position had been identified and approved by senior management.
11	• District injury compensation staff • District operations team leaders	Prepare and complete formal job offers
12	• District NRP team (operations and injury compensation) • District labor relations team	Schedule employee interviews to discuss and present job offers; notify employees and union representatives
13	• District NRP team	Conduct interviews for the approved job offers with employees
14	• District NRP team • District Injury Compensation Manager • District NRP Labor Relations Representative	Two weeks after each interview, follow up to ensure that each employee has responded to their job offer
15	• District Injury Compensation Manager	When the job offer is accepted, the Injury Compensation Manager must coordinate with the manager of the new facility to prepare for the employee to start work there
16	• Area Injury Compensation Manager • Area Injury Compensation Team Leader	Meet with DOL's OWCP District Director to discuss the NRP and the Service's preliminary NWA list
17	• Area and district NRP teams	Area and district teams review all NWA employee files and review them for accuracy
18	• Area and district NRP team leaders	Meet with district managers on the status of the NRP and discuss the job searches that senior managers will have to approve
19	• Area NRP team leaders	Brief surrounding district managers in the local commuting area on the NRP, and discuss the district's responsibility in completing the job searches
20	• District injury compensation staff • District NRP operations team	Track and file job search results
21	• District NRP team	Schedule interviews with employees receiving NWA determinations
22	• Area NRP team	Brief the Service's Inspection Service and its Office of Inspector General on NRP and NWA interviews <sup>b</sup>
23	• Area NRP team • District labor relations team • District Operations Team Leader	Brief local unions about ongoing and preliminary NWA employee results
24	• District NRP team	Prepare employee resource guide and meet with applicable Service staff to discuss the final steps of the NWA process
25	• District NRP team	Notify employees by letter at least 14 days in advance of employee interviews
26	• Area NRP team	Brief district NRP teams on the prescribed script for the interviews and select interview team leaders
27	• District NRP team • Area Operations Team Leader • Area Injury Compensation Team Leader	Conduct first interviews with all affected employees
28	• District NRP Operations Team Leader or member	Notify facility managers of upcoming second interview with employees receiving NWA determinations
29	• District NRP team • Area Operations Team Leader • Area Injury Compensation Team Leader	Conduct second interviews with employees receiving NWA determinations
30	• District injury compensation staff • District NRP operations team	Track and identify activities related to employees placed on OWCP's rolls due to NWA determinations

Source: GAO analysis of Service data.

<sup>a</sup>The Service calls this phase, "Phase 2: Rehabilitation." To enhance the clarity of this report, we refer to this phase as "Phase 2."

1-14

**Appendix IV: Description of NRP Activities,  
by Phase and Step**

<sup>a</sup>The Service notifies representatives within its Postal Inspection Service and its Office of Inspector General in anticipation of problems that may be encountered during interviews with employees receiving an NWA determination.

**Figure 8: Description of NRP Activities in Phase 3**

Phase 3 <sup>a</sup>		
Step	Responsible team member	Activity description
1	• Headquarters Health and Resource Management Team Leader	Meet with area and selected district NRP team members and train them on this phase
2	• Headquarters NRP team • Area NRP team	Meet with district senior managers to initiate this phase and confirm their support
3	• District senior management • DAT members	Meet with union representatives and Service management organizations to inform them about this phase
4	• Area Health and Resource Management Team Leader • District health and resource management staff	Review NRP workbook files to ensure that all employees who have not yet reached their MMI are listed
5	• Area NRP team • District NRP team	Train district managers on their role in Phase 3
6	• Area NRP team • District NRP team	DAT conducts initial modified work assignment determinations and area team commences its review of these determinations
1	• Headquarters/area/district NRP teams	Review all proposed modified work assignment determinations for accuracy
2	• Headquarters/area/district NRP teams	Train facility managers or supervisors on work status meetings and explain all possible work status determinations
3	• DAT	Review documentation for all modified work assignments for compliance
4	• Facility Manager/Supervisor	On a daily basis, review available necessary tasks and make assignment determinations, and conduct daily work status meetings with injured employees who have not yet reached their MMI
1	• Facility Manager/Supervisor	Employee presents updated medical documentation for an existing injury or new documentation for a recent injury
2	• Facility Manager/Supervisor	Managers/supervisors assess each employee based on recently presented medical documentation to determine the availability of necessary work
3	• Facility Manager/Supervisor	Managers/supervisors present work status determination to each employee, elicit employee feedback regarding the proposed assignment, and make adjustments if necessary

Source: GAO analysis of Service data.

<sup>a</sup>The Service calls this phase, "Phase 2: Limited Duty." We refer to this phase as "Phase 3."

1-15

To Whom It May Concern:

My name is Chuck Lee. I work at the PMA (Priority Mail Annex) on Tour 2 as Mail Processing Clerk and Clerk Union Steward on Day Shift. On February 8<sup>th</sup>, 2011 – around 9:45am, my supervisor Donna Gruetzmacher called me to see the gentleman stand by her desk. He introduced me as U.S. Postal Inspector Michel Vanchek to discuss about to interview one of the mechanic (Brenda Burke). At the mean time, U.S. Postal Inspector Michel Vanchek provided his business card to my supervisor Donna Gruetzmacher. Then I requested his business card but he denied my request. At 10am, I called my APWU Local President Jessie Gobunquin how to handle this issue. Mr. Gobunquin gave me his direction not to represent because of difference crafts. On the same tour, Mr. Lance M. to represent for Ms. Burke was available.

Regards,



Chuck Lee  
Tour 2 PMA Clerk Union Steward

02/22/2011

2

## 2 Audits and Investigations

### 21 General

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#### 211 Authority

##### 211.1 Responsibility

###### 211.11 Inspector General

The Office of Inspector General (OIG), authorized by law in 1996 as a federal law enforcement and oversight agency, conducts audits and investigations of Postal Service programs and operations, and oversight of the Postal Inspection Service (5 United States Code [U.S.C.] App. 3; 18 U.S.C. 3061; and 39 U.S.C. 404 (a)(7)). The OIG is headed by the inspector general. The inspector general, independent of postal management, is appointed by and reports directly to the nine presidentially appointed Governors of the Postal Service (39 U.S.C. 202).

###### 211.12 Chief Inspector

The Postal Inspection Service, a federal law enforcement agency, conducts audits and investigations of Postal Service programs and operations (18 U.S.C. 3061 and 39 U.S.C. 404 (a)(7)), and is headed by the chief inspector, who reports directly to the postmaster general. The chief inspector acts as security officer and emergency coordinator for the Postal Service and maintains liaison with other investigative and law enforcement agencies of the government, as well as the Federal Emergency Management Agency and other emergency coordinators.

###### 211.13 Designation of Functions

The Governors approved a distribution of duties and responsibilities between the OIG and the Postal Inspection Service to maximize each organization's capabilities and maintain their legislated roles and responsibilities. The designations of functions provide for partnering opportunities, while avoiding duplicative efforts. See Exhibit 211 for a synopsis of the designation of functions.

3 -1

**Exhibit 211**  
**Designation of Functions**

Office of Inspector General*	Postal Inspection Service
<b>Audits</b>	
<ul style="list-style-type: none"> <li>■ Financial statements, including:           <ul style="list-style-type: none"> <li>– Overall opinion audits</li> <li>– Quality reviews of Postal Inspection Service work</li> </ul> </li> <li>■ Postal-wide performance reviews</li> <li>■ Contract audits, except pre-award and post-award audits</li> <li>■ Developmental audits</li> <li>■ Facility audits, including:           <ul style="list-style-type: none"> <li>– Facilities construction contracts of \$10 million or more</li> <li>– Right of first choice on contracts valued between \$5–10 million</li> <li>– Leases of \$1 million or more</li> <li>– Repair and alterations of \$1 million or more</li> </ul> </li> <li>■ Revenue-focused audits (international mail)</li> </ul>	<ul style="list-style-type: none"> <li>■ Financial statements, including installations and districts</li> <li>■ Area, district and local performance reviews</li> <li>■ Service investigations</li> <li>■ Pre-award and post-award contract audits</li> <li>■ Facility audits, including:           <ul style="list-style-type: none"> <li>– Facilities construction contracts of \$5 million or less</li> <li>– Contracts between \$5–10 million not performed by OIG</li> <li>– Leases under \$1 million</li> <li>– Repair and alterations under \$1 million</li> </ul> </li> </ul>
<b>Investigations</b>	
<ul style="list-style-type: none"> <li>■ Revenue cases, including:           <ul style="list-style-type: none"> <li>– Bribery, kickbacks, conflicts of interest</li> <li>– Systemic reviews</li> </ul> </li> <li>■ Workers' compensation cases, including:           <ul style="list-style-type: none"> <li>– Inspector General subpoenas</li> <li>– Program monitoring</li> </ul> </li> <li>■ Tort claims, including:           <ul style="list-style-type: none"> <li>– Serious incidents</li> <li>– Liability reports</li> </ul> </li> <li>■ Embezzlements (conduct/partner on cases of \$100,000 or more)</li> <li>■ Expenditure cases, including:           <ul style="list-style-type: none"> <li>– Bribery, kickbacks, and conflicts of interest</li> <li>– Systemic reviews</li> </ul> </li> <li>■ Conduct/partner on cases involving executives</li> <li>■ Postal Inspection Service internal affairs: executives</li> <li>■ Computer forensics</li> <li>■ Hotline</li> </ul>	<ul style="list-style-type: none"> <li>■ Revenue cases, including:           <ul style="list-style-type: none"> <li>– Revenue loss detection</li> <li>– Shares with OIG on revenue task force and other groups</li> </ul> </li> <li>■ Primary responsibility for workers' compensation cases</li> <li>■ Tort claims</li> <li>■ Embezzlements under \$100,000</li> <li>■ Expenditure cases, including:           <ul style="list-style-type: none"> <li>– Cases referred by OIG</li> <li>– IMPAC card cases</li> <li>– Local purchases or procurements</li> </ul> </li> <li>■ Emergency responses on cases involving executives</li> <li>■ Internal and external crimes</li> <li>■ Employee protection</li> <li>■ Security</li> <li>■ Fraud and prohibited mailings</li> <li>■ Postal Inspection Service internal affairs: non-executives</li> <li>■ Forensic and technical services</li> </ul>
<b>Other</b>	
<p><b>Additional OIG work:</b></p> <ul style="list-style-type: none"> <li>■ Oversight of the Postal Inspection Service</li> <li>■ Postal rate-making programs and operations</li> <li>■ Revenue generation</li> <li>■ Labor management</li> <li>■ Electronic commerce</li> </ul>	

\* The Inspector General has oversight responsibility for Postal Inspection Service functions. The Inspector General retains the right to conduct/partner with the Postal Inspection Service on audits and investigations, pursuant to the Inspector General Act.

3-2

**211.14 Federal Laws and Postal Regulations**

211.141 The OIG is responsible for promoting economy, efficiency, and effectiveness, and preventing and detecting fraud, waste, and abuse in all postal programs and operations. The OIG conducts and supervises audits, evaluations, and investigations and keeps the Governors and Congress fully informed of problems and deficiencies and the progress of corrective actions. Under applicable policies, regulations, and procedures, it carries out investigations and presents evidence to the Department of Justice and U.S. attorneys in investigations of a criminal nature.

211.142 The Postal Inspection Service is responsible for protection of the mails, enforcement of federal laws and postal regulations within its jurisdiction as provided in 211.22, plant and personnel security, and coordinating Postal Service emergency preparedness planning of both a wartime and a natural disaster nature. The Postal Inspection Service, under applicable policies, regulations, and procedures, carries out investigations and presents evidence to the Department of Justice and U.S. attorneys in investigations of a criminal nature. In coordination with the OIG, the Postal Inspection Service also performs selected audits and reviews of the Postal Service.

**211.2 Arrest and Subpoena Powers****211.21 Authorization**

OIG special agents and postal inspectors are authorized to perform the following functions in connection with any matter within their respective official duties as established by the inspector general and the chief inspector:

- a. Carry firearms.
- b. Serve warrants and subpoenas issued under the authority of the United States.
- c. Make arrests without warrant for offenses against the United States committed in their presence.
- d. Make arrests without warrant for felonies cognizable under the laws of the United States, if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony.

**211.22 Limitations**

The powers granted by 211.21 are exercised only in the enforcement of laws regarding property in the custody of the Postal Service, property of the Postal Service, the use of the mails, other postal offenses, and pursuant to any agreements between the attorney general and the Postal Service, in the enforcement of other federal laws, violations of which the attorney general determines have a detrimental effect on the Postal Service.

3-3

**211.3 Access to Records****211.31 Records and Documents**

The OIG and Postal Inspection Service are authorized access to all records and documents of possible relevance to an official audit, evaluation, fact-finding, inspection, investigation, review or other inquiry whether they are in the custody of the Postal Service or otherwise available to the Postal Service by law, contract, or regulation. This includes information about mail sent or received by a particular customer. Exceptions to authorized access are listed in 211.33.

**211.32 Disclosure**

Information obtained under 211.31 may be disclosed to other postal employees who have a need for such information in the performance of their duties or to any federal, state, or local government agency or unit thereof that needs such information for civil, administrative, or criminal law enforcement. Any such disclosure must be consistent with Postal Service privacy regulations (see Handbook AS-353, *Guide to Privacy and the Freedom of Information Act*).

**211.33 Exceptions**

There are no exceptions when an inquiry, such as an investigation, inspection, evaluation, fact-finding, review, or audit is conducted under the authority of the Inspector General Act. Exceptions to the policy of disclosure are the following:

- a. For information from the covers of mail, see 213. For dead mail, see the *Domestic Mail Manual*.
- b. For access to employee restricted medical records and Employee Assistance Program records, see Handbook EL-806, *Health and Medical Service*, Chapter 2, and *Employee and Labor Relations Manual* (ELM) 870.
- c. For access to an employee's Form 2417, *Confidential Statement of Employment and Financial Interests*, see the ELM or 39 CFR 447.42(e)(2).

**212 Circulars and Rewards****212.1 Wanted Circulars**

The Postal Inspection Service and the OIG issues wanted circulars to help locate and arrest fugitive postal offenders. Post these circulars in the most conspicuous place in the post office lobby and in other prominent places. Post near Poster 296, *Notice of Reward*. Telephone immediately the postal inspector in charge or inspector general with any information on the possible location of the person wanted. Remove and destroy circulars immediately when notified of their cancellation or when the circular is not listed in the periodic *Postal Bulletin* notices of current wanted circulars.



**Area CSPAs and Field Support & Integration Telecon**  
**Meeting Minutes**  
**March 7, 2007**

Meeting Type	Monthly Telecom
Meeting Name	Rainy Smith
Date	03/07/07
Location	Telecom
Participants	Duquesa Wright, Grace David, Sue Shields, Gayla Gorman, Bill Halstead, Joe Lacko, Bill Zapor, Pam Brown & Terry Graves, Mike Rodriguez (for R. Bullock), Carol Larson, Robert Faruq, Lucy Brown.

## 1. MINUTES

### Meeting Overview

Kelvin Mack, Manager, In-Sourcing Program, will provide an overview of this call center initiative and the Customer Care Center pilot activities occurring in the Detroit District, Field Support & Integration and Area updates.

### In-Sourcing Program - Kelvin Mack

The Corporate Contact Center contract currently costs the USPS \$65 million annually. With an ever expanding variety of customer call types, EMRS (Express Mail), Claims and now Inspection Service calls, contract costs will increase and could increase to \$82 million annually. Twenty-two to thirty-three million calls are handled by agents and forty-three million calls are handled by the IVR a year.

The purpose of the In-Sourcing program is to bring call center operations back in-house using rehab and limited duty employees already on rolls (about 32,000 nationally). This is one of many projects being developed to improve the effectiveness and operational efficiency of responding to customer's inquiries and concerns.

The Detroit District has been selected as the pilot Customer Care Center with Consumer Affairs Manager, Glenda Herrmann selected as the manager. Management staff includes three supervisors. Headquarters purchased equipment and the district is absorbing the work hours. The pilot will continue until June 2008.

The Detroit center will handle ZIP codes & domestic rate calls initially. Using the same 800-ASK-USPS phone number customers requesting ZIP Code and rate information will automatically be transferred to the Detroit Customer Care Center. Twenty five agents started this week; total of eighty-five agents needed. Hours of operation are M-F 8am-8:30pm, and Sat 8am-4:30pm. Success target - \$800,000 earned by handling calls diverted from Convergys. Call duration goal - 3 minutes initially, will reduce over time. Calls will be recorded. Future plan is to survey customers to gauge satisfaction.

Future plan - implement program in a district that has large pool of target employees; establish a twenty-four hour operation with 250 positions. Under consideration - process where sales and service associates (SSAs) can call the center and obtain assistance with Spanish speaking customers.

### FSI Update:

#### CAM Orientation

Carol Larson shared that Ms. Killette asked Field Support to develop an orientation program for new CAMs to be funded by HQ Consumer Affairs. Carol is the lead for this project.

#### The proposal at this time recommends:

- 1.5 day session at HQ

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**Area CSPAs and Field Support & Integration Telecon**  
**Meeting Minutes**  
**March 7, 2007**

- The program would be funded only for permanent CAMs. Acting CAMs could attend if travel and per diem were funded by the District.
- Based on varying background of new CAMs, the program needs to be flexible to include training specific to CAM knowledge base. CAMs will be asked to complete a survey on their perceived competency/skill levels before the orientation session.
- Goal is to schedule first session in early April.
- Input has been obtained from several new CAMs, "seasoned" CAMs, CSPAs and HQ Consumer Affairs functional groups on what information should be presented as part of CAM orientation.

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**PARS Web Conference**

Carol Larson shared that Field Support has been asked to present a Web Conference on PARS. We would be glad to accommodate but need a more defined focus. CSPAs were asked to query their CAMs on what they would find helpful to be addressed. We need specific topics, i.e. how to troubleshoot when . . . problems created due to failure to follow correct processes, etc. CSPAs are asked to send CAM feedback to CRM Support by COB March 16. Also, are there any CAMs in your Area who have more experience with PARS and would offer to help present on a Web Conference.

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**Area CSPAs and Field Support & Integration Telecom**  
**Meeting Minutes**  
**March 7, 2007**

GLA – Sue shared that PMG Jack Potter was visiting Chicago next week. Sue shared a factor she witnessed contributing to service issues is the large number of vacant routes in at least one large facility.

NYM – Duquesa shared that the area was focusing on overdue SIRs and contact scores. She also noted that at the recent area marketing manager's meeting, HQ Consumer Affairs was not represented. Carol took this as an action item to discuss with Robert so Consumer Affairs can be included on future agendas.

NEA – Bill shared that International Claims is a persistent problem area. The Inspection Service is conducting a four hour Fraud session that will be attended by 6 of 8 CAMs. Acting VP is sending congratulatory letters to 5 STAR recipients.

A suggestion was made to offer the opportunity for additional Answer Station licenses to be purchased locally so individual CAO clerks could have access. A separate follow-up email will be sent to Area CSPAs for response.

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Next telecom: Wednesday, April 4, 1-2 PM.

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4-3

## UNITED STATES POSTAL SERVICE **CONSUMER ADVOCATE**

August 31, 2007



### **VP Consumer Advocate attends grand opening**

Detroit Call Center now Detroit Customer Care Center began training to become a national Call Center in February 2007. Training was completed March 5 for the 20 agents and they were expected to handle 3200 calls per day. Those expectations were exceeded when on March 26<sup>th</sup> the 20 agents took 5000 calls and were asking for

more. The employees signing up as agents were limited duty and now work as call center agents. "Today we are celebrating!" said VP and Consumer Advocate Delores Killette during the grand opening ceremonies. "We are celebrating a project that's helping Postal employees and the Postal Service stay on the path to success. The new Customer Care Center in Detroit opened for business June 21, 2007. Roxanne Wenskay, Detroit Marketing Manager, introduced speakers Delores Killette, Vice President Consumer Advocate, Headquarters; JoAnn Feindt, Vice President Area Operations; Nancy Rettinhouse, Detroit District Manager and Sandra Laemmel, NALC Branch 1 President, Detroit. This new national call center is one more way the Postal Service is using to make it easier for postal customers to contact the Postal Service and received solutions to problems and answers to questions.

Working together as a team with one common goal management and employees are learning on the job together and building a solid path to success. Congratulations to the Detroit Call Center for their can do attitude working this new concept. For more information contact Glenda Herrmann 313-225-5420.

### **eCustomerCare project tested**

Headquarters Consumer Affairs is pleased to announce the launch of the Enterprise Customer Care (eCC) Proof of Concept (PoC) in September 2007. The eCC PoC, coordinated by the Corporate Customer Contact group, will test the foundation for a new enterprise solution for Web self-service and USPS case management. This two-pronged approach supports customer service through a more customer intuitive online form for inquiry submission and routing, and streamlines customer service operations with email response capability for internal users. A special thank you to the Northeast Area and Boston District for their efforts as the test site this project

4-4

District Manager  
Seattle District



October 1, 2007

**Permanent Posting**  
**Employee Bulletin Boards**

SUBJECT: Reasonable Accommodation  
Policy Statement

MEMORANDUM FOR: Postmasters  
Station and Branch Managers  
Plant Managers  
Supervisors  
Seattle District Staff

In the event that you have an employee that is disabled or becomes disabled due to a physical or mental condition, he or she may request that accommodations be made in order to perform their job. When a request is made, (written request should be obtained), a Reasonable Accommodation Assessment Form must be completed properly and signed by all officials. in every case without exception. Managers are required to submit all denied requests for accommodation (if the condition is permanent) to the District Reasonable Accommodation Committee (DRAC), for review and assessment, utilizing a Reasonable Accommodation Nomination.

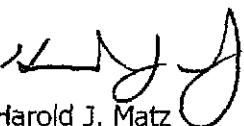
Attached is an updated Accommodation Assessment Form dated (9/17/03), other editions should not be used. This assessment form is a tool to assist you in making informed and accurate decisions in response to requests for reasonable accommodation (a request for a change at work for a reason related to a medical condition which will impact an essential job function).

The assessment form will also be included as a part of the accident kit provided to all offices. In addition to whenever a specific request for reasonable accommodation is made, you are required to complete the assessment form under the following circumstances:

- If an employee reports an injury and requests light duty while the claim is being adjudicated.
- If an on-the-job injury claim is denied and the employee requests light duty.
- If the employee disagrees with the light duty assignment.

Failure to afford an employee or applicant (qualified disabled) appropriate accommodations when necessary and/or requested, can lead to costly lawsuits. There are no exceptions to the use of the attached assessment form.

For more information refer to Handbook EL-307 (9/2003), Guidelines on Reasonable Accommodation and/or call the EEO/Dispute Resolution Office at (206) 442-6290, or the Health Resource Management Office at (206) 442-6040. Additional resources available to you are Publication 317 (9/2003), Manager's Guide to Reasonable Accommodation, and Publication 318 (3/00), and Reasonable Accommodation Interactive Process.

  
Harold J. Matz  
District Manager

5-11-07